

**United States Small Business Administration
Office of Hearings and Appeals**

In the Matter of:

Hamstra-Juliet JV, LLC,

Protestor,

Re: Purple Heart Heroes, LLC

Solicitation No. 36C25519R0036
U.S. Department of Veterans Affairs
Network Contracting Office 15

SBA No. CVE-170-P

Decided: November 10, 2020

ORDER DISMISSING PROTEST¹

I. Background

On October 30, 2020, the Contracting Officer (CO) for the subject procurement forwarded to the Small Business Administration (SBA) Office of Hearings and Appeals (OHA) a status protest filed by Hamstra-Juliet JV, LLC (Protestor) against Purple Heart Heroes, LLC (PHH) in connection with the U.S. Department of Veterans Affairs (VA) Solicitation No. 36C25519R0036. The protest challenges whether PHH qualifies as a Service-Disabled Veteran-Owned Small Business (SDVOSB).

The CO informed OHA that Protester received notification that PHH was the apparent successful offeror on September 29, 2020, and any CVE protest would have been due no later than October 6, 2020. (Letter from P. Becker, October 29, 2020.) The Protestor filed the instant protest on October 16, 2020, seventeen days after such notification. Protestor appeared to be requesting the CO to file her own protest. (Protest, at 2.) However, the CO has not done so.

Based on the forgoing, I issued an Order to Show Cause on October 30, 2020 why the protest petition should not be dismissed as untimely. On November 6, 2020, Protestor responded to my Order and conceded that the protest is untimely. (Protestor's Response to Order to Show Cause, at 1.) Protestor maintains that it was not aware of PHH's alleged ineligibility until after the five-day period had passed. (*Id.*) Protestor argues that its protest should not be dismissed as untimely because the misuse of a service-disabled veteran's status to gain a government contract in this situation is egregious. Protestor maintains that an investigation as to the ownership and control of PHH is necessary to maintain the integrity of the service disabled, veteran owned

¹ OHA adjudicates SDVOSB status protests pursuant to 38 U.S.C. § 8127(f)(8)(B) and 13 C.F.R. part 134 subpart J.

small business program. (*Id.*, at 2.) In closing, Protestor asks OHA to find the protest timely and determine PHH ineligible for award under this Solicitation. (*Id.*, at 3.)

II. Discussion

Under the regulations governing protests challenging the SDVOSB status of a concern in response to a VA solicitation, a protestor must file their protest within five business days of notification of the apparent awardee's identity. 13 C.F.R. § 134.1004(a)(2)(i). Protestor's response that it learned of the basis of its protest later does not begin or extend the time for filing the protest, rather it is the notification of the apparent awardee's identity that begins the running of the time to file a protest. Because notice of PHH's identity, as the apparent successful offeror, was provided on September 29, 2020, any SDVOSB status protest would have been due no later than October 6, 2020. The CO received the instant protest on October 16, 2020, and it is therefore untimely. *Id.*

Protestor's argument that the protest should not be dismissed because PHH must be investigated does not give OHA jurisdiction to adjudicate an untimely protest. Thus, I must dismiss an untimely protest, regardless of its alleged merits. 13 C.F.R. § 134.1004(a)(4); *Matter of Price Gordon Company LLC d/b/a Veterans National Transportation*, SBA No. CVE-141-P (2019).

III. Conclusion

For the above reasons, the protest is DISMISSED with prejudice. This is the final agency action of the U.S. Small Business Administration. 38 U.S.C. § 8127(f)(8)(B); 13 C.F.R. § 134.1007(b).

CHRISTOPHER HOLLEMAN
Administrative Judge